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Report to Congressional Committees

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INSPECTORS GENERAL

Treasury's Office of Inspector General Properly Established

GAO/AFMD-90-70

GAO

United States
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Accounting and Financial
Management Division

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June 14, 1990

The Honorable Robert C. Byrd
Chairman, Committee on Appropriations
United States Senate

The Honorable John Glenn
Chairman, Committee on Governmental
Affairs
United States Senate

The Honorable Jamie L. Whitten
Chairman, Committee on Appropriations
House of Representatives

The Honorable John Conyers, Jr.
Chairman, Committee on Government Operations
House of Representatives

The conference report (H.R. 101-276, October 11, 1989) on the Treasury Department Appropriations Act, 1990 (Public Law 101-136), directed us to review the Department of the Treasury's implementation of the Inspector General Act of 1978, as amended, and report the results to the your Committees. As agreed with your offices, we determined if Treasury has taken actions specified by the act to establish an Office of Inspector General (OIG). Because of specific congressional concerns, we also determined if the OIG has been assigned or has carried out any operational responsibilities, such as the approval of budget submissions by Treasury's four law enforcement bureaus—the Bureau of Alcohol, Tobacco and Firearms; the U.S. Customs Service; the Secret Service; and the Internal Revenue Service (IRS). In addition, we ascertained whether Treasury had placed any prohibitions on OIG audits or investigations.

Results in Brief

We found that Treasury has taken the steps specified by the act to establish an OIG. In addition, we found no evidence that the OIG has any improper operational responsibility concerning the four law enforcement bureaus. Also, we found no prohibitions of OIG audits or investigations.

Background

The Inspector General Act Amendments of 1988 (Public Law 100-504, October 18, 1988) amended the Inspector General Act of 1978 to require

the Department of the Treasury to establish an OIG similar to those in 23 other agencies. The 1988 amendments required that the President appoint the Inspector General, subject to Senate confirmation. Prior to the enactment of this law, Treasury had established an administrative OIG and the Secretary of the Treasury had responsibility for appointing an Inspector General. The administratively established OIG at Treasury had less responsibility than statutory OIGs in other agencies. For example, we reported in 1986[1] that Treasury's administratively established OIG had audit responsibility for about one-tenth of the Department. The remainder of the Department was subject to internal audit and internal investigative units maintained in the law enforcement bureaus.

Objectives, Scope, and Methodology

The objectives of our review were to determine if (1) Treasury has taken actions specified by the 1988 amendments to the Inspector General Act to establish an OIG, (2) the OIG has been assigned or has conducted any improper operational responsibilities, such as the approval of budget submissions, and (3) Treasury has prohibited any OIG audits or investigations.

To fulfill these objectives, we met with the Inspector General and other OIG officials. We also reviewed documents related to the establishment of the OIG, including departmental orders, descriptions of OIG functions, plans, and fiscal year 1990 and 1991 budget data. In addition, we interviewed officials in Treasury's law enforcement bureaus regarding the congressional concerns related to the OIG's authority and role in these bureaus. To determine if Treasury had prohibited any audit or investigation, we talked with the Inspector General and the Acting Inspector General who was his predecessor.

We discussed the contents of this report with the Inspector General and incorporated his views where appropriate. Our work was conducted in accordance with generally accepted government auditing standards at Treasury headquarters in Washington, D.C., between January and March 1990. We did not review the quality of Treasury OIG audits or the effectiveness of the OIG in providing internal audit coverage to the Department.

[1] Treasury Department: An Assessment of the Need for a Statutory Inspector General (GAO/AFMD-86-3, August 21, 1986).

OIG Established at Treasury

As required by the 1988 amendments, Treasury consolidated the audit resources from the Bureau of Alcohol, Tobacco and Firearms; the U.S. Customs Service; the Secret Service; and the administratively established OIG to form the statutory OIG. Treasury's fourth law enforcement bureau, the Internal Revenue Service, retained its own internal audit function. Each of the four law enforcement bureaus retained its internal investigation function.

The Secretary also issued Treasury Order 114-01, dated May 16, 1989, which incorporated the requirements of the 1988 amendments into departmental policies. In addition, the President nominated and the Senate confirmed the Inspector General, who was sworn into office on November 22, 1989. The Inspector General had previously served as the Deputy Inspector General at the Environmental Protection Agency and, prior to that, as Assistant Inspector General for Audit at the Department of Housing and Urban Development. For fiscal year 1990, 237 full-time equivalent OIG staff positions have been authorized. In our opinion, the actions taken to establish the OIG have all been consistent with the provisions of the 1988 amendments.

OIG Role in Law Enforcement Bureaus

Congressional concerns about the OIG's role in Treasury's four law enforcement bureaus were voiced during deliberations over the Department's fiscal year 1990 appropriation. In particular, there were concerns that the OIG may improperly exercise operational responsibilities, such as budget approval, for the four bureaus. The Inspector General Act of 1978, as amended, provides that an inspector general will not have any program operating responsibilities.

In our discussions with OIG and law enforcement bureau officials and our review of Treasury's policies pertaining to the OIG, we found no evidence that the OIG has improperly assumed operational responsibilities in the Department. With respect to the particular congressional concern that the law enforcement bureau budgets might be subject to OIG approval, OIG officials and bureau budget chiefs told us that the OIG does not play a role in the bureau budget approval process.

The statutory OIG has assumed internal audit responsibilities in the three law enforcement bureaus whose internal audit functions were consolidated into the statutory OIG. OIG auditors are currently conducting audits in each of these bureaus. In addition, the OIG has oversight responsibilities for internal investigations in these bureaus.

The 1988 amendments did not consolidate the IRS internal audit and internal investigation unit into the OIG but authorized the Inspector General to conduct audits and investigations in the IRS as appropriate. The Inspector General has included the IRS in four multibureau internal audits that the OIG has conducted. In these cases, the Inspector General's staff plans the audits and conducts work in other Treasury bureaus, but auditors from IRS perform the audit work in IRS. The Inspector General has not had his auditors perform any audits solely of IRS functions. However, the Assistant Inspector General for Audit said that this would be done if, for example, he found that IRS internal auditors were not auditing a specific area or their internal audits were not of an acceptable quality.

In January 1990, the Commissioner of IRS and the Inspector General agreed, with the approval of the Deputy Secretary of the Treasury, that the Inspector General would (1) perform investigations of all IRS officials at or above grade 15 and other IRS employees where the independence of IRS internal investigators could be questioned, (2) provide oversight of the internal audit and internal investigation unit, and (3) conduct special reviews of IRS operations. The agreement notes that the 1988 amendments authorize the OIG to perform these activities. The agreement also provides for the transfer of 16 full-time equivalent staff and $1.6 million in appropriated funds for fiscal year 1990 from the IRS to the OIG for the agreed-upon activities.

The 1988 amendments give the Inspector General oversight responsibility for IRS internal audits and all internal investigations conducted by the investigative units of all four law enforcement bureaus. Treasury Order 114-01 requires that bureau heads consult with the Inspector General (1) in recruiting candidates to direct the internal audit and internal investigative units in the law enforcement bureaus and (2) prior to completing performance evaluations for the heads of these units.

Treasury Has Not Prohibited OIG Work

The Inspector General Act of 1978, as amended, states that an inspector general is under the general supervision of the agency head and that no agency official can prohibit an inspector general from initiating, carrying out, or completing any audit, investigation, or subpoena. However, under the 1988 amendments, the Treasury Inspector General is under the authority, direction, and control of the Secretary with respect to activities requiring access to certain sensitive information. Sensitive information includes matters concerning ongoing criminal investigations or proceedings, undercover operations, deliberations on policy matters

that could reasonably have a significant influence on the national economy or market behavior, and matters which if disclosed would seriously threaten the protection of certain persons, including the President. The 1988 amendments also authorize the Secretary to prohibit Inspector General activities if the Secretary determines the prohibition is necessary to prevent (1) disclosure of sensitive information or (2) a significant impairment to the national interest. The Inspector General told us that there had been no such prohibition in his tenure, which began in November 1989, and the former Acting Inspector General, his predecessor, said he knew of no such prohibition.

Conclusions

Treasury has taken appropriate actions to establish its OIG in accordance with the Inspector General Act of 1978, as amended. We found no indications that the OIG had assumed any improper operational responsibilities in the Treasury law enforcement bureaus where there had been congressional concerns. Similarly, we found no indications that the OIG has been prohibited from performing any audit or investigation.

We are sending copies of this report today to the Chairmen of the Senate and House Subcommittees on Treasury, Postal Service, and General Government, Committees on Appropriations. Unless you publicly announce the contents of this report earlier, we will not distribute it further until 30 days from its date. At that time, we will send copies to the Director, Office of Management and Budget; the Secretary of the Treasury; interested congressional committees; and other interested parties. Please contact me at (202) 275-9454 if you or your staff have any questions. Major contributors to this report are listed in appendix I.

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